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March 20, 2001

BY HAND AND ELECTRONIC FILING

Hon. Nicholas G. Garaufis
United States District Court
Eastern District of New York
225 Cadman Plaza East
Brooklyn, NY 11201

Re: *European Community v. RJR., et al.*, 00 Civ. 6617 (NGG); *Department of Amazonas, et al. v. Philip Morris Companies Inc., et al.*, 00 Civ. 2881
(Consolidated)

Dear Judge Garaufis:

Mr. Malone's March 16, 2001, letter to this Court reflects a fundamental misperception of defendants' position with respect to proposed subpoenas for bank records at a time when this Court has stayed discovery pending the resolution of the motions to dismiss. Mr. Malone's letter implies that we agree that any subpoena issued at this time should be for the production of documents. That is not our position.

Our position, clearly stated in our March 13, 2001, letter to the Court was that if a bank refuses to reveal whether it has responsive documents and if it is unwilling to preserve them without a Court order, then this Court, upon such a showing, should authorize subpoenas limited to requiring the banks to preserve such records until such time as discovery is permitted, if at all, to occur in this case.

As set forth in our earlier letter, we urge the Court to maintain its original stay order, to require the parties to seek Court approval before serving a particular subpoena on a bank and to authorize subpoenas only for the purpose of directing the banks to preserve responsive documents. Our proposal will allow the Court to regulate discovery issues in keeping with the outstanding order staying discovery pending the resolution of the motions to dismiss.

Respectfully submitted,

/s/ Irvin B. Nathan

Irvin B. Nathan
Counsel for Philip Morris Defendants

cc: All Counsel of Record